APR 16 2019

MEMORANDUM FOR PATRICIA W. SILVEY
Deputy Assistant Secretary for
Mine Safety and Health Administration

THROUGH: TIMOTHY R. WATKINS
Administrator for
Mine Safety and Health Enforcement

FROM: THOMAS W. CHARBONEAULT
Director, Office of Assessments

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review
Coal District 10, Madisonville, Kentucky Field Office

Introduction

This memorandum summarizes the Office of Accountability’s (OA) review of Coal’s District 10 Madisonville, Kentucky Field Office. The review focused on enforcement activities at the

This review included MSHA field activities, level of enforcement, conditions and practices at the mine, Field Activity Reviews, Accompanied Activity Reviews and MSHA supervisory and managerial oversight activities.

Purpose

The purpose of this accountability review is to determine whether MSHA enforcement policies, procedures and guidance are being followed consistently and to assess whether mission critical enforcement activities are accomplished effectively. The accountability review also identifies areas for improvement and evaluates the subsequent implementation of effective corrective actions to address any identified issues.
Overview

Office of Accountability Specialists Mark Odum and Troy Davis (Review Team) conducted the review in accordance with the annual accountability review plan schedule. The review concentrated on one Regular Safety and Health Inspection (E01), of the Event No. The OA selected the mine for review because it is an underground operation with two Mechanized Mining Units (MMUs). The Review Team conducted the on-site review from The review focused on enforcement activities conducted in FY 2018 and included a review of supervisory oversight activities.

Mine Visit

The Review Team accompanied the Field Office Supervisor and an inspector to the mine on as part of a Regular Safety and Health Inspection (E01).

The mine is located in and employs approximately miners working two production shifts and one maintenance shift per day, five days a week. The mine produces an average of tons of raw coal daily. Coal is mined by room and pillar mining with continuous mining machines and transported by shuttle cars and coal haulers to a conveyor system routed to the surface. The coal is then transported to a preparation plant for processing and shipment to the customer. During the mine visit, the Review Team evaluated general conditions at the mine, assessed whether conditions at the mine corresponded with enforcement levels documented in the inspection reports reviewed and observed work practices at the mine site.

The mine visit included inspections and observations of the following:

Surface Areas:
- Pre-inspection discussions with mine operator
- Mine examination records and postings
- Escapeway map
- Check-in and check-out system
- Communication and tracking system
- Surface operations of the carbon monoxide monitoring system for early fire detection along conveyor belt entries

Underground No. 1 Unit Working Section, MMUs 001-0 and 002-0:
- Examinations of the working section for imminent dangers, methane tests, air readings and evidence of examinations
- Mining cycle
- Powered haulage work practices and car routes during the loading cycle
- Ventilation, rock dusting, cleanup and roof and rib conditions
- General work practices
- A functional test of the post-accident communication and tracking system
- Operation of the proximity detection system on the continuous mining machine
• Escapeway map for the working section
• Section refuge alternative location, communications and escapeway map

Underground Outby Areas:
• Alternate escapeway (supply road) traveled from surface to the working section –
lifelines and signage
• General conditions of outby areas (ventilation, rock dusting, cleanup and roof and rib
conditions)
• A Self-Contained Self-Rescuer storage location
• No. 1 Unit section belt
• Functional test of the fire suppression system at a belt drive
• Firefighting equipment at a belt drive
• One set of seals containing five 120 psi seals

During this mine visit the inspector issued four enforcement actions (Attachment E).

Review Results

The review revealed positive findings in the following areas:

• Inspectors documented start/stop points and color coding on the Tracking Map.
• Inspectors documented clearly on a map all rockdust samples taken.
• The District participated in local coordination meetings held by mine operators as
outlined in emergency response plans.

This accountability review identified one issue that required a corrective action plan. District
staff, along with the Review Team, analyzed the findings identified during this review to
determine the root causes of the issue. The corrective action plan memorandum outlining the
root causes of the issue and corrective actions implemented is included in an attachment to this
memorandum. (Attachment A)

Issue: The documentation reviewed for the Regular Safety and Health Inspection (E01),
Event No. [redacted] was not complete. (Office of Accountability Checklist Item #2)

A. The E01 Inspection Report File was not complete. The following items were missing
from the report:
• Two MSHA Forms (2000-86) for respirable dust surveys conducted during the
E01
• Blue cards and respirable dust analysis report for one respirable dust survey
conducted

The Review Team discussed with District personnel some inspection and procedural best
practices as described in the Coal Mine Safety and Health General Inspection Procedures
Handbook. A general outline of discussion topics is included in an attachment to this
memorandum. (Attachment C)
Based on the review and observations made during the mine visit, the enforcement levels were appropriate with existing mining conditions and work practices.
Attachments

A. Corrective Action Plan
B. Issues Requiring Corrective Action
C. Discussion Topics
D. Office of Accountability Checklist
E. Enforcement Actions Issued During the Mine Visit

<table>
<thead>
<tr>
<th>Citation No.</th>
<th>Standard Cited</th>
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<tbody>
<tr>
<td></td>
<td>75.370(a)(1)</td>
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<td>75.1505(b)</td>
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<td>75.1506(h)(1)</td>
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<td>75.202(a)</td>
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Attachment A: Corrective Action Plan

This is a response to the review conducted by the Office of Accountability from District 10, and the results of the review identified one deficiency which is required to be addressed by the District.

Issue:
The E01 Inspection Report File was not complete. The following items were missing from the report:

Two MSHA Forms (2000-86) for respirable dust surveys conducted during the E01

Six dust data cards and one Respirable Dust Analysis Report for respirable dust conducted.
ROOT CAUSE:
Dust Data Card(s) and 2000-86(s) Forms were being separated from the CMI(s) health inspection sampling notes prior to being filed in the inspection report. A system was not in place to ensure that all data concerning respirable dust sampling were included in the final inspection report.

PROPOSED CORRECTIVE ACTIONS:
Corrective Action for issue specifically identified during the Office of Accountability Review conducted from [Date]

Focused training has been provided to Field Office Assistants, AR's, and Field Office Supervisors on the requirements listed in the General Inspection Procedures Handbook (GIPH) for the items specifically identified as deficient during the review.

CMI(s) that are preparing the final E01 report will communicate with the Health Group to determine if there were additional respirable dust samples taken during the last two weeks of the inspection. If additional samples were taken, the CMI(s) will account for the notes, 2000-86(s), Dust Data Card(s), and Respirable Dust Analysis Report(s) obtained.

Each Field Office Assistant will maintain all respirable dust sampling notes including MSHA Forms 2000-86(s), and sample Dust Data Card(s) together in a file until the Respirable Dust Analysis Report(s) for each sampling shift are obtained and printed. Analysis report(s) will then be placed with the sample Dust Data Card(s) and filed for later review.

After the final inspection report has been submitted, the Field Office Supervisor will pull inspector sampling data from the Mine Data Retrieval System and compare the total number and types of entities sampled with the inspection report to ensure that all Dust Data Card(s), Respirable Dust Analysis Report(s), and count depicted on MSHA Form 2000-22 are accurate before the E01 inspection report is filed.

All participants have signed an attendance roster and a record of the training has been filed with the corrective actions for this review.

OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):
The Assistant District Manager - Enforcement will be responsible for implementing the corrective action(s).
TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:
Training was performed on February 6th, 2019 for all CM1's, Specialist, Field Office Assistants, backup Field Office Assistants, and Field Office Supervisors.

METHOD FOR DETERMINING SUCCESS:
Review of implementation was conducted during a quarterly supervisory review of an underground mine E01 inspection. By the end of the 2nd Quarter FY 2019, a FAR was conducted on an underground mine E01 inspection from one of the Madisonville Field Office's. Supervisory personnel from the District assisted the Madisonville Field Office Supervisor in the review of the E01 inspection. The purpose of the review was to determine if the corrective actions for the Office of Accountability review were successful. The FAR is being reviewed and further retraining will occur if an issue identified during the FAR was also found during this Office of Accountability review. The ADM Enforcement oversaw this review and a report is being generated upon final closure of any deficiencies, and this report will be placed into the file where this Office of Accountability review is located. Feedback will be communicated to the District Manager through a 2nd Level Review of the FAR.

A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION:
The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments through Ted D. Smith, Supervisor, Office of Accountability, through David L. Weaver, Acting Deputy Administrator for Coal Mine Safety and Health, and through Marcus A. Smith, Supervisor, Accident Investigation/Special Investigations/ACR Group upon completion and evaluation of the corrective actions.
Attachment B: Issues Requiring a Corrective Action Plan

**Issue:** The documentation reviewed for the Regular Safety and Health Inspection (E01), Event No. [redacted] was not complete. (Office of Accountability Checklist Item #2)

A. The E01 Inspection Report File was not complete. The following items were missing from the report:

- Two MSHA Forms (2000-86) for respirable dust surveys conducted during the E01
- Blue cards and respirable dust analysis report for one respirable dust survey conducted

Attachment C: Discussion Topics

Topics discussed with the District that do not require a corrective action plan:

- Discussed quarterly rockdust sampling of significant return aircourses.
- Discussed documentation of the Inspection Tracking System
- Discussed documentation of MSHA Form 2000-22 (Mine Activity Data Form)
- Discussed documentation of 103(i) Spot Calendars
- Discussed documentation of six month Emergency Response Plan Reviews in the MSHA Standardized Information System
- Discussed maintenance of the Uniform Mine File
Attachment D: Office of Accountability Checklist

1. Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

2. Determine if documentation for inspections is complete and thorough.
   Adequate [ ]  Corrective Action Needed [X]  Comments Below [X]
   A. The E01 Inspection Report File was not complete. The following items were missing from the report:
      - Two MSHA forms (2000-86) for respirable dust surveys conducted during the E01
      - Blue cards and respirable dust analysis report for one respirable dust survey conducted.
      (See Attachment B)

3. Determine if citations and orders issued during previous inspections were properly evaluated for gravity, negligence, level of enforcement, number of persons affected and supported by documentation.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

4. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

5. Evaluate inspector/specialist examination of the operator’s maps (on-site) for accuracy, escapeway locations, etc.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]
6. Evaluate, upon arrival to the working section, inspector/specialist examination of all working areas and highwalls for imminent dangers.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

7. Evaluate the inspector/specialist observation of the work cycle and conditions in the active working section during the review.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

8. Evaluate the inspector/specialist air quantity, quality and gas checks during the review.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

9. Evaluate inspector/specialist examination of equipment electrical cables during the review.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

10. Evaluate inspector/specialist examination for permissibility during the review.
    Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

11. Determine if previous E01 inspections include examinations of the condition and maintenance of conveyor belts, belt entries, belt drives, fire detection and suppression systems and separation of belt entries from other air courses.
    Adequate [X] Corrective Action Needed [ ] Comments Below [ ]
12. Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

13. Determine if adequate close-out conferences are being conducted at the end of each inspection.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

14. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

15. Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

16. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]
<table>
<thead>
<tr>
<th>District</th>
<th>Coal District 10</th>
<th>Field Office</th>
<th>Madisonville, KY Field Office</th>
<th>Mine ID</th>
<th>Date</th>
</tr>
</thead>
</table>

17. Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.<br>Adequate ✗ Corrective Action Needed □ Comments Below □

18. Determine if required Accompanied Activities (AAs); Field Activity Reviews (FARs) and supervisory follow-ups are being conducted and documented according to agency policy and procedures?<br>Adequate □ Corrective Action Needed □ Comments Below □

19. Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.<br>Adequate ✗ Corrective Action Needed □ Comments Below □

20. Determine if the Uniform Mine File books are being maintained and reviewed according to current agency policy and procedures.<br>Adequate ✗ Corrective Action Needed □ Comments Below □

21. Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?<br>Adequate ✗ Corrective Action Needed □ Comments Below □
22. Determine if supervisors are visiting each active underground mine at least annually.
Adequate [X]  Corrective Action Needed [ ] Comments Below [ ]

23. Determine if all sections where retreat mining is occurring (not to include longwall mining) are being inspected at least monthly?
Adequate [ ]  Corrective Action Needed [ ] Comments Below [X]
No retreat mining in District 10

24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency’s mission.
Adequate [X]  Corrective Action Needed [ ] Comments Below [ ]

25. Determine, after an in-mine visit, if approved plans (Ventilation, Roof Control, Training, Emergency Response Plan (ERP), etc.) are compatible with mining conditions and equipment.
Adequate [X]  Corrective Action Needed [ ] Comments Below [X]
This review included a review of four additional mine ERPs to determine that “Local Coordination” was included in the plans.

26. Determine if approved plans are being revised or updated to reflect changes in conditions and/or equipment.
Adequate [X]  Corrective Action Needed [ ] Comments Below [ ]
27. Determine if plan reviews are in compliance with current agency policy and procedures (performed within required timeframes, tracked from the date of submission, properly documented and contain input from all affected departments and field offices).

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

28. Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Field Activity Reviews and Accompanied Activities.

29. Determine if district management personnel are reviewing work products and reports for accuracy and completeness.

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

30. Determine if District Managers, Assistant District Managers and supervisors are conducting required mine visits and properly completing the required spreadsheet.

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

31. Determine if District Manager is using discretion in granting conferences and monitoring the Alternative Case Resolution (ACR) program to ensure that all decisions (including upholding, modifying or vacating citations) are properly documented and justified by the Conference and Litigation Representatives (CLRs).

Adequate [ ] Corrective Action Needed [ ] Comments Below [X]

Not part of this review
32. Determine if managers and supervisors are using standardized reports to review critical data relevant to inspections and investigations.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

33. Determine if Districts are conducting reviews in compliance with agency policy and procedures including follow-up to determine the effectiveness of corrective actions.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

34. Determine if information (mine status, methane liberation, number of employees, etc.) is being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

35. Determine if District Managers are using the Report Center to identify overdue responses from operators and take appropriate actions.

36. Determine if a complete permissibility inspection of each longwall system is being conducted by electrical specialists or inspectors who hold a current MSHA electrical qualification card on at least an annual basis.

Adequate [ ]  Corrective Action Needed [ ]  Comments Below [X]

No longwalls in District 10
Determine if a proper examination of the Atmospheric Monitoring System (AMS) and/or AMS systems that operate Carbon Monoxide (CO) sensors is being conducted. A complete inspection includes those items in the Coal General Inspection Procedures Handbook (GiPH) AMS checklist.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

Determine if SSIs are maintaining a memorandum detailing the reasons for not conducting a special investigation when the District Manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.

Determine if proper procedures for conducting, documenting and reviewing MSHA respirable dust surveys are being followed. Proper documentation to include blue cards, 2000-86s, etc.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

Determine if District Managers and Assistant District Managers are providing acting field office supervisors with the level of oversight necessary to manage their work groups on a temporary basis including an online distance learning training course with a knowledge check for temporarily promoted supervisors. The guidance will be included in each District’s Standard Operating Procedure (SOP) for training newly promoted field office supervisors.

Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]
The Roof Control Plan SOP should comply with the established Program Policy Manual requirements as identified by the OIG report to address deficiencies identified in the Internal Review report. The SOPs should account for:

- checking that required information is submitted
- checking for communication with other plan approval groups
- assuring that designated MSHA personnel contact the operator for additional information
- discussing results of on-site evaluations with the operator and identified miners' representatives.

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]
Attachment E: Enforcement Actions issued during Mine Visit

<table>
<thead>
<tr>
<th>Mine Citation/Order</th>
<th>U.S. Department of Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date: M D Y</td>
<td>Mine Safety and Health Administration</td>
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<tr>
<td>2. Time (24 hr. clock)</td>
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<tr>
<td>3. Citation/Order Date</td>
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<td>4. Violation Rule Number</td>
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<td>5. Mine ID</td>
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<td>6. Mine</td>
<td></td>
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<td>7. Mine ID</td>
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<tr>
<td>8. Section of Act</td>
<td></td>
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<td>9. Title 30 CFR</td>
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<td>10. Standard</td>
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<td>11. Citation/Order</td>
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<tr>
<td>12. Type of Action</td>
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<td>13. Type of Issuance</td>
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<td>14. Initial Action</td>
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<td>15. Area of Equipment</td>
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<td>16. Termination Date</td>
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<tr>
<td>17. Action to Terminate</td>
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<tr>
<td>18. Termination Date</td>
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<tr>
<td>19. Type of Inspection</td>
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<td>20. Event Number</td>
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<tr>
<td>21. Primary or MIB</td>
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<td>22. Afl Name</td>
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<tr>
<td>23. Afl Number</td>
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</table>
The escapeway map provided for the #1 Unit is not being kept up to date to show any change in route of travel, location of doors and location of Refuge Alternatives by the end of the shift on which the change is made. The escapeway maps that could be located on the unit depicted the #1 Unit in the 6th Panel North, the unit has been in the 2nd North Submain for approximately a month.

Standard 75.1505(b) was cited

See Continuation Form (MSHA Form 7000-3)
The Refuge Alternative provided for the #1 Unit (in/n #13072) is not being conspicuously identified with a sign or marker made of reflective material with the word "Refuge" on it.

This Refuge Alternative is located at spad 5-00, between the #9 and 10 entries in the 2nd North Submain.
United States Department of Labor
Mine Safety and Health Administration
Office of Accountability

Mine Citation/Order

<table>
<thead>
<tr>
<th>District</th>
<th>Coal District 10</th>
<th>Field Office</th>
<th>Madisonville, KY</th>
<th>Mine ID</th>
<th>Date</th>
</tr>
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</table>

The operator has failed to adequately support or otherwise control the mine roof at the 1A Head Drive. Upon inspection a loose rock was found in the examiner's walkway between the start box and the head drive. The loose rock was between the outside pin and the coal rib. It was hanging approximately 9 feet above the mine floor and after it was scaled down the largest piece of the rock was found to be 2 feet long by 1 foot wide and 2.5 inches thick. This hazard exposes miners to the risk of cuts, bruises, and broken bones should they be struck by material falling from the mine roof.

Standard 75.202(a) was cited

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
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<th>B. Likelihood of Injury or Illness (Likely)</th>
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<td>High Likely</td>
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<td>Occurred</td>
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| 11. Negligence (Check one): | A. None | B. Low | C. Moderate | D. High | E. Reckless
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<th>13. Type of Sanction (Check one):</th>
<th>Citation</th>
<th>Order</th>
<th>Safeguard</th>
<th>Written Notice</th>
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<th>14. Initial Action</th>
<th>A. Citation</th>
<th>B. Order</th>
<th>C. Safeguard</th>
<th>D. Written Notice</th>
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<th>15. Area or Equipment</th>
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<tr>
<th>16. Action to Terminate</th>
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<tbody>
<tr>
<td>The operator has scaled the loose rock from the mine roof. The mine roof around the 1A Head Drive now appears to be adequately supported or otherwise controlled.</td>
</tr>
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</table>

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20. AR Name

NIOSH Form 7000.3: Apr 08 (Rev 07) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Outreach Coordinator and 15 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Outreach Coordinator annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Outreach Coordinator at Small Business Administration, Office of the National Coordinator, 400 3rd St. SW, Mail Stop 6210, Washington, DC 20460. Please note, however, that your right to be a participant in the Outreach Program is in addition to any other rights you may have. Including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.